

Claimant was referred to Dr. James Hopkins by her attorney. Dr. Hopkins also found claimant had reached maximum medical improvement. Claimant was then referred to Dr. Fernando Egea, who in September 1998 found claimant was in need of surgery. After having pursued this matter in the Missouri workers' compensation courts for a period of several years, claimant then filed an E-1 in the state of Kansas on October 28, 1998. She proceeded to preliminary hearing on May 13, 1999, before Administrative Law Judge Foerschler.

The only issue to be considered at this time is whether the Kansas Workers Compensation Act applies. The parties acknowledge, under K.S.A. 44-506, only two ways to create jurisdiction for an accident which admittedly occurred in Missouri. First, is to have the principal place of business in Kansas, which the parties acknowledge is not the case here. The other method of obtaining Kansas jurisdiction is for the employment contract to have been created in Kansas.

Kansas jurisdiction will arise if the final act necessary to perform the contract occurred in the state of Kansas. Hartigan v. Babcock & Wilcox Co., 191 Kan. 331, 380 P.2d 383 (1963).

This matter has been extensively litigated, even though it is only at the preliminary hearing stage. Numerous situations, including telephone conversations, interviews, preparation of applications, discussions regarding rates of pay and benefits, and the signing of confidentiality agreements, service observing agreements and employee account notices were discussed in the record. However, the Administrative Law Judge found the most significant act to be considered was the administering of a blood test to claimant by respondent. The Administrative Law Judge noted that this blood test, which was a requirement of claimant's employment with respondent, was an invasive procedure and required an employment commitment before it was administered.

Claimant acknowledges undergoing the blood test, but testified that this blood test occurred several days before her actual acceptance of the job by telephone from her then current place of employment in Kansas. Respondent's representative, Kim Marie Burnett, an employee of respondent's Human Resources Department, testified that the blood test was only given after an offer and an acceptance of a job. It is respondent's position that the final act necessary to form the contract was the interview which occurred in Missouri, followed immediately thereafter by the blood test which was administered in the state of Missouri. The Administrative Law Judge found that this act, which created the contract, occurred in Missouri.

The Appeals Board, in reviewing the evidence, agrees with the decision by the Administrative Law Judge. Therefore, the Appeals Board finds that this contract was formed in Missouri and the Kansas Workers Compensation Act has no jurisdiction over this claim.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the order of Administrative Law Judge Robert H. Foerschler dated June 15, 1999, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 1999.

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**BOARD MEMBER**

c: Leah Brown Burkhead, Mission, KS  
Patricia A. Wohlford, Kansas City, MO  
Theresa A. Otto, Kansas City, MO  
Robert H. Foerschler, Administrative Law Judge  
Philip S. Harness, Director